ANDA 74-984 October 23, 1998

Purepac Pharmaceutical Co.
Attention: Joan Janulis, R.A.C.
200 Elmora Avenue
Elizabeth, NJ 07207

Dear Madam:

This is in reference to your abbreviated new drug application dated October 11, 1996, submitted pursuant to Section 505(j) of the Federal Food, Drug, and Cosmetic Act (Act), for Diltiazem Hydrochloride Extended-release Capsules USP (Once-a-Day Dosage), 120 mg, 180 mg, 240 mg and 300 mg.

Reference is also made to your amendments dated November 13, 1996; January 31, and October 2, 1997; and February 4, April 21, August 14, September 10, and October 8, 1998.

We have completed the review of this abbreviated application and have concluded that the drug is safe and effective for use as recommended in the submitted labeling. Accordingly, your application is **tentatively approved**. This determination is contingent upon information available to the Agency at this time, (i.e., information in your application and the status of current good manufacturing practices of the facilities used in the manufacturing and testing of the drug product) and is, therefore, subject to change on the basis of new information that may come to our attention. This letter does not address notice issues related to the 180-day exclusivity provisions under section 505(j)(5)(B)(iv) of the Act.

The listed drug product referenced in your application is subject to periods of patent protection which expire on March 26, 2008, (patent 5,002,776); November 14, 2011 (patent 5,364,620); August 8, 2012 (patent 5,439,689); January 16, 2007 (patent 4,894,240); and May 20, 2011 (patents 5,470,584 and 5,286,497). Your application contains patent certifications under Section 505(j)(2)(A)(vii)(IV) of the Act stating that each patent is invalid and/or that your manufacture, use, or sale of Diltiazem Hydrochloride Extended-release Capsules USP, 120 mg, 180 mg, 240 mg, and 300 mg will not infringe on these patents. Section 505(j)(5)(B)(iii) of the Act provides that approval shall be made effective immediately unless an action is brought for infringement of one or more of the patents which are the subject of the certifications before the expiration of forty-five days

from the date the notice provided under paragraph (2)(B)(I) is received. However, you have notified the Agency that litigation is underway in the United States District Court for the District of New Jersey involving a challenge to patent 5,439,689 (the '689 patent), (Hoechst Marion Roussel, Inc. and Carderm Capital L.P. v. Faulding Inc. and Purepac Pharmaceutical Co., Civil Action No. 97-516). Therefore, final approval cannot be granted until:

1. a. the expiration of the 30-month period provided for in section 505(j)(5)(B)(iii) since the date of receipt of the 45-day notice required under section 505(j)(2)(B)(I), unless the court has extended or reduced the period because of the failure of either party to reasonably cooperate in expediting the action, or,

   b. the date of court decision [505(j)(5)(B)(iii) (I), (II), or (III)], which has been interpreted by the Agency to mean the date of the final order or judgement of that court from which no appeal can be or has been taken, or,

   c. the patent has expired, and

2. The Agency is assured there is no new information that would affect whether final approval should be granted.

Because the Agency is granting a tentative approval for this application, when you believe that your application may be considered for final approval, you must amend your application to notify the Agency whether circumstances have or have not arisen that may affect the effective date of final approval. Your amendment must provide:

1. a copy of a final order or judgement from which no appeal may be taken (which might not be the one from the district court), or a settlement agreement between the parties, whichever is applicable, or a licensing agreement between you and the patent holder, or any other relevant information, and

2. a. updated information related to labeling or chemistry, manufacturing and controls data, or any other change in the conditions outlined in this abbreviated application, or

   b. a statement that no such changes have been made to the application since the date of tentative

approval.

Any changes in the conditions outlined in this abbreviated application and the status of the manufacturing and testing facilities' compliance with current good manufacturing procedures are subject to Agency review before final approval of the application will be made.

In addition to, or instead of, the amendments referred to above, the Agency may, at any time prior to the final date of approval, request that you submit amendments containing the information requested above.

Failure to submit either or both amendments may result in rescission of this tentative approval determination, or delay in issuance of the final approval letter.

The drug product that is the subject of this abbreviated application may not be marketed without final Agency approval under section 505 of the Act. The introduction or delivery for introduction into interstate commerce of this drug before the effective final approval date is prohibited under section 501 of the Act. Also, until the Agency issues the final approval letter, this drug product will not be listed in the Agency's "Approved Drug Products with Therapeutic Equivalence Evaluations" list.

The amendment should be designated as a MINOR AMENDMENT in your cover letter. Before you submit the amendment, please contact Timothy Ames, Project Manager, at (301) 827–5849, for further instructions.

Sincerely yours,

Douglas L. Sporn
Director
Office of Generic Drugs
Center for Drug Evaluation and Research